

REMARKS

Claims 33-39 and 42-80 are pending and rejected. Claim 33 is amended. No new matter is added.

Double Patenting

Claims 58-80 are provisionally rejected under obviousness-type double patenting over claims 21-24, 26-27, 29, 39-42, 52-56, and 60-68 of copending application No. 10/440,804. Applicant will submit a Terminal Disclaimer to application No. 10/440,804 upon indication of allowable claims.

Claim Rejections Under 35 U.S.C. §112

Claims 33-39, and 42-57 are rejected under 35 U.S.C. §112 ¶1. The Examiner states "This is a New Matter rejection since the recited 'at least one acidic compound comprising a homopolymers/copolymer of an α,β -unsaturated carboxylic acid containing--', wherein each of (a), (d), and (g) are in at least a substantially homogeneous phase' in claim 33 does not have support in the originally filed specification" (Office Action p. 3).

Applicant disagrees that his previous amendment was new matter, and makes the present amendment solely to facilitate prosecution. Applicant now amends claim 33 to delete the text that the Examiner regarded as new matter, instead distinguishing Falsafi by requiring that Applicant's first paste contains water.

Applicant's present amendment is supported at least at originally filed claim 38 and at page 19, line 18 to page 20, lines 5-10, thus no new matter is added. Specifically, Applicant discloses at page 20, lines 8-10, "A solvent can be incorporated into either paste or both pastes. In one embodiment, water is incorporated into the first paste."

Falsafi requires that the polyacids in his part A exist as "discrete, solid particles". To achieve this requirement, water in Falsafi's composition was incorporated in Part B and was purposely separated from the polyacid in part A, because water would be a very good solvent for the polyacid. See Falsafi claim 1 "... (a) a part A comprising discrete, solid particles of a polymer comprising acid functionally dispersed in a polymerizable component;...and (b) a part B comprising water..."); see also Falsafi col. 8 lines 46-52 "Part A is a dispersion that comprises...Part B comprises water..." (emphasis added); see also Falsafi Abstract "... (a) a part A comprising at least one polyacid...and (b) a part B comprising water..."; see also Falsafi col. 1 line 66 to col. 2 line 1 "... (a) a part A comprising at least one polyacid...and (b) a part B comprising water..."

Adding water to Falsafi's part A would not result in a dispersion of discrete, solid particles, as known to one skilled in the art and as Falsafi requires. In contrast, Applicant's amended claim requires water in the first paste, thus teaching away from Falsafi, so that Applicant's claims are not obvious over Falsafi for this reason as well as the reasons previously asserted. In addition, Applicant discloses improved stability of the composition by requiring the ratio of the first paste to the second paste be greater than 1:1 (by volume).

Applicant now turns to the Examiner's statement at the middle of page 3: "Also, the recited homopolymers/copolymer only has support for the carboxylic acid containing monomers (see pages 11-12 of the specification)." Applicant respectfully disagrees, and requests the Examiner to note that claim 33 had been previously amended to delete chemical structures other than the α,β -unsaturated carboxylic acid. Applicant requests the Examiner to note the bracketed text in claim 1, indicating deleted text. In view of Applicant's previously deleted text, the Examiner's statement regarding support is moot.

Claims 33-39, and 42-57 are rejected under 35 U.S.C. §112 ¶2 as indefinite. Applicant disagrees. In claim 33, "R" appears in the chemical structures, which were deleted as indicated by their inclusion in brackets. Thus, the rejections are moot.

Thus, for at least these reasons, Applicant believes these rejections are overcome and respectfully requests their withdrawal.

CONCLUSION

Applicant believes this application is now in complete condition for allowance and respectfully requests that a Notice of Allowance be issued.

No fees are believed due, but the Examiner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 23-3000. The Examiner is invited to contact the undersigned representative with any questions.

Respectfully submitted,
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